

§ 95-198. Medical emergency and nonemergency situations.

(a) Where a treating health care provider determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a hazardous substance trade secret substance to that treating physician or nurse, regardless of the existence of written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and a confidentiality agreement as soon as circumstances permit. The confidentiality agreement (i) may restrict the use of the information to the health purposes indicated in a written statement of need; (ii) may provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and (iii) may not include requirements for the posting of a penalty bond. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law.

(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a responsible party, as defined in the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the responsible party sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law.

(c) If the chemical manufacturer, importer or employer denies a written request for hazardous substance trade secret release, or does not provide this information within 30 days, the Department of Labor shall initiate the trade secret claim determination process under G.S. 95-197. (1985, c. 775, s. 1; 1998-217, s. 31.)